



Economic and Social Council

Distr.
LIMITED

E/CN.6/1998/WG/L.3
12 March 1998

ORIGINAL: ENGLISH

COMMISSION ON THE STATUS OF WOMEN
Forty-second session
Open-ended Working Group on the
Elaboration of a Draft Optional
Protocol to the Convention on the
Elimination of All Forms of
Discrimination against Women
2-13 March 1998
Agenda item 5

CONVENTION ON THE ELIMINATION OF ALL FORMS OF
DISCRIMINATION AGAINST WOMEN, INCLUDING THE
ELABORATION OF A DRAFT OPTIONAL PROTOCOL TO
THE CONVENTION

Chairperson's summary

Preamble

1. The Working Group agreed that the optional protocol would be preceded by a short, succinct preamble which reflected the international human rights framework of the United Nations. Delegations agreed that the preamble would note that the Charter of the United Nations and the Universal Declaration of Human Rights establish the principles of equality between men and women and the entitlement of all, without distinction based on sex and other grounds, to human rights. Delegations agreed that the preamble would recall the international covenants and other human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women. It would reaffirm States parties' determination to ensure the full and equal enjoyment by women of all human rights and fundamental freedoms and to take effective action to prevent violations of these rights and freedoms. Some delegations suggested that the preamble should also recall that the Vienna Declaration and Programme of Action reaffirmed the universality, indivisibility and interrelatedness of all human rights and called for the introduction of the right of petition through the preparation of an optional protocol to the Convention. Some delegations also suggested that the preamble should make reference to the Beijing Platform for Action. Others suggested that these documents be addressed in a resolution.

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Article 3

2. Delegations recalled that article 3 of the draft protocol had been agreed by the working group ad referendum. Noting that article 1 of the first draft optional protocol had explicitly precluded reception of communications relating to States parties to the Covenant that were not States parties to the protocol, delegations agreed to the addition of this formula in article 3 ad referendum.

Article 12

3. Some delegations were of the view that article 12 of the protocol was not required because States parties to the protocol would be obliged to ensure that its procedures were accessible and to cooperate with the Committee and because the texts of existing international procedures did not include a similar provision.

4. Many delegations were of the view that an article emphasizing States' obligations in this regard was desirable, but that this article should be put in positive terms. Several delegations suggested that the State party be called on to cooperate in the effective exercise of the right to submit communications or information to the Committee. Others suggested that this right be facilitated, promoted or supported. A number of delegations were of the view that it was undesirable to refer to the protocol as creating rights and it was preferable to provide that States parties would respect the procedure provided by the protocol.

5. Many delegations suggested that the protocol should provide that the State would cooperate with the Committee at all stages of its proceedings under the protocol, but noted that this obligation would be implied in the absence of such a provision.

6. Some delegations suggested that the protocol should explicitly provide that States parties would undertake to take appropriate steps to protect those using the protocol from interference and reprisal.

Article 13

7. Delegations recalled that article 13 had been adopted ad referendum.

Article 14

8. Many delegations stressed the importance of wide knowledge of and publicity for the protocol, its procedures and the conclusions of the Committee in this context. Several noted the importance of ensuring wide dissemination of the jurisprudence of the Committee. Several noted that provisions relating to knowledge of and publicity for treaties were not included in existing instruments providing communications procedures, while others noted that article 42 of the Convention on the Rights of the Child made such provision, as did the Human Rights Committee's rules of procedure.

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9. A number of delegations expressed the view that a simple formulation relating to publicity would be appropriate and that this should address the protocol and the Convention. Many delegations agreed that it was important for women to be aware of the Convention and the protocol, but cautioned against a provision that would involve onerous obligations, including of a financial nature, for States parties.

Article 15

10. One delegation noted that in light of article 17 of the Convention on the Elimination of All Forms of Discrimination against Women, article 15 of the protocol was redundant. Many delegations expressed the view that a specific reference to the Committee's powers with regard to rules of procedure should be included in the protocol for the purposes of clarity. Delegations adopted the article ad referendum.

Article 17

11. Delegations adopted article 17 of the draft protocol ad referendum.

Article 18

12. While several delegations expressed the view that the optional protocol should enter into force after the fifth instrument of ratification or accession was lodged with the Secretary-General, they were willing to join the many delegations who favoured entry into force after 10 ratifications or accessions. A number of delegations, arguing for consistency with the threshold established in the Convention, were of the view that 20 should be required.

Article 19

13. Several delegations noted that this provision was a restatement of article 29 of the Vienna Convention on the Law of Treaties and suggested its retention. A number of delegations noted that an equivalent provision was not to be found in the Convention on the Elimination of All Forms of Discrimination against Women. Delegations agreed to delete this article from the protocol.
